

## 21 C.J.S. Courts § 159

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### Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

### V. Rules of Practice and Procedure

#### A. Rules of Practice and Procedure, Generally

##### 1. In General

### § 159. Matters subject to regulation—Appeal and error

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Courts](#)  80, 80(4)

**Reasonable rules of court regulating practice and procedure with respect to appeal or error are valid if not in contravention of the constitution or statutes.**

Subject to the principle that rules of court must not contravene constitutional or statutory provisions nor regulate substantive rights, courts may, especially where the legislature has provided no mode of procedure, adopt reasonable rules of practice with respect to appeals and writs of error.<sup>1</sup> However, a rule of court is invalid if it deprives a party of a constitutional or statutory right to prosecute an appeal or a writ of error,<sup>2</sup> and the right to appeal may not be conferred by court rule.<sup>3</sup>

Although the right of the State to take an interlocutory appeal is sufficiently substantive as not to be within the authority of the court to alter it by rule,<sup>4</sup> the State's right to appeal in a criminal case may not be a matter of substance that is not subject to court rules.<sup>5</sup>

In general, the policy of the rules of appellate procedure is to disregard technicality in form so that a just, speedy, and inexpensive determination of every appellate proceeding on its merits may be obtained.<sup>6</sup>

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## Footnotes

- 1 Miss.—*Hathcock v. Southern Farm Bureau Cas. Ins. Co.*, 912 So. 2d 844 (Miss. 2005).  
  
**Time of appeal**  
A procedural rule may alter time during which an appeal may be taken.  
  
Nev.—*State v. Connery*, 99 Nev. 342, 661 P.2d 1298 (1983).
- 2 N.M.—*Smith v. Love*, 1984-NMSC-061, 101 N.M. 355, 683 P.2d 37 (1984).
- 3 N.M.—*Eastern Indem. Co. of Maryland v. Heller*, 102 N.M. 144, 1984-NMCA-125, 692 P.2d 530 (Ct. App. 1984).
- 4 Me.—*State v. Kelly*, 376 A.2d 840 (Me. 1977) (criminal prosecution).
- 5 Minn.—*State v. Wingo*, 266 N.W.2d 508 (Minn. 1978).
- 6 Tenn.—*Biscan v. Brown*, 160 S.W.3d 462 (Tenn. 2005).